



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

March 14, 2003

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426
(by Electronic Filing)

Re: *American Electric Power Company, Inc., Central and South West Corporation, Docket Nos. EC98-40-000, ER98-2770-000, ER98-2786-000 and The New PJM Companies and PJM Interconnection, L.L.C., Docket Nos. ER03-262-000 and ER03-262-001; Motion For Intervention Out-Of-Time On Behalf Of The Pennsylvania Public Utility Commission And Joint Comments And Motion For Relief Of the Michigan Public Service Commission, the Ohio Public Utilities Commission And the Pennsylvania Public Utility Commission (NOT CONSOLIDATED)*

Dear Ms. Salas:

Please accept for filing in the above-referenced matter an electronically filed motion for intervention out-of-time on behalf of the Pennsylvania Public Utility Commission and joint comments and motion for relief of the Michigan Public Service Commission, the Ohio Public Utilities Commission and the Pennsylvania Public Utility Commission in the above captioned cases. Service has been made upon the service list as evidenced by the attached certificate of service.

Thank you for your attention to this matter. If you have any questions in reference to this filing, please contact me at 717-787-5978.

Sincerely,

John A. Levin
Assistant Counsel

Enclosures

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**Re: American Electric Power Company,
Inc., Central and South West
Corporation**

**EC98-40-000
ER98-2770-000
ER98-2786-000**

**The New PJM Companies and PJM
Interconnection, L.L.C.**

**ER03-262-000
ER03-262-001**

(CASES NOT CONSOLIDATED)

**MOTION OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION
FOR LEAVE TO INTERVENE OUT-OF-TIME, AND JOINT COMMENTS
AND MOTION FOR RELIEF OF THE MICHIGAN PUBLIC SERVICE
COMMISSION THE PUBLIC UTILITIES COMMISSION OF OHIO, AND THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Pennsylvania Public Utility Commission¹, which has not previously intervened in the above captioned proceedings hereby moves your Commission for leave to intervene out-of-time, good cause having been shown., pursuant to Rules 214 (a) (2) and 214 (b) of the rules of practice and procedure of your Commission.

Further, the Michigan Public Service Commission (“MichPSC”), the Public Utilities Commission of Ohio (“PUCO”) and the Pennsylvania Public Utility

¹ The Pennsylvania Public Utility Commission has not previously intervened in the above proceedings, and desires to do so in order to participate in the joint motion for relief contained in this document.

Commission ("PaPUC") jointly submit comments and move for relief with regard to the above dockets as discussed below.

1. All communications with respect to this matter should be addressed as follows:

For the Michigan Public Service Commission:

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Steven Hughey, Assistant Attorney General
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MOTION FOR LEAVE TO INTERVENE OUT OF TIME

2. The PaPUC is a state administrative commission created by the General Assembly of the Commonwealth of Pennsylvania and charged with the regulation of electric utilities and licensing of generation suppliers within the Commonwealth of Pennsylvania. 66 Pa.C.S. §101, et seq. It is therefore a “state commission” within the meaning of Rule 214(a)(2).
3. For good cause shown below, the PaPUC asks your Commission to grant its motion for leave to intervene out of time in the above captioned dockets. Intervention is sought for the purpose of requesting that your Commission act forthwith to enforce unfulfilled merger conditions and resolve state/federal jurisdictional conflicts which are blocking the progress of RTO expansion in the Northeastern United States and which threaten the progress of your Commission’s efforts to promote competitive wholesale markets and resolve regional wholesale market seams through RTO formation and the fashioning of a standard wholesale market design.
4. The PaPUC, in support of the public interest in effective and fair wholesale markets, desires to intervene in the above captioned cases in order to ask your Commission to resolve this conflict by exercise of FERC’s jurisdictional authority and enforcement of its orders and rules. No other party is able to adequately represent the individual interests of the PaPUC. Although the proceeding is presently underway, the PaPUC does not

believe that permitting its interventions will unfairly prejudice the rights of any party, as it agrees that it will take the record as it presently exists and will not seek to reopen, delay or defer any matter settled prior to the grant of this motion for intervention. These circumstances constitute good cause for granting this motion, in accordance with Rule 385.214 (c) (2001).

SUMMARY OF RELIEF REQUESTED

5. The MichPSC, the PUCO, and PaPUC (collectively, the “Joint Movants”), request that the Federal Energy Regulatory Commission (FERC) consider the proposals presented herein, in order to accommodate expansion of a seamless interstate transmission system with open access and a robust wholesale electricity market as a means to both expedite the consideration of case number ER03-262-000 and to implement the conditions imposed on this Commission’s merger approval in the other above-referenced dockets.
6. *The first choice of the Joint Movants is that your Commission direct AEP to join an established RTO.* As noted below, this is required by the terms of AEP’s merger proceeding and final order and is either required or encouraged by state laws in Ohio, Michigan and Pennsylvania.
7. The second choice of the Joint Movants, in order to forestall a jurisdictional conflict and facilitate the implementation of a competitive wholesale market would be for your Commission to issue an order requiring AEP to immediately transfer control of its transmission system to a third party free

of any ownership or other interest in wholesale energy markets, and required to operate under an established RTO through a binding contract. This need not require any legal transfer of functional control or state approval and would continue progress towards development of competitive wholesale markets.

8. The second choice presented here is an alternative solution, and, while not the ideal end state for competitive wholesale markets that we all envision, will enable progress to be made.
9. Ohio, Michigan and Pennsylvania and many other state commissions have adopted retail customer choice programs under the jurisdiction of their respective states and urgently need the continued development of a competitive wholesale market to advance retail choice. Ohio and Michigan requires their state utilities to divest or transfer control of their transmission assets to an independent entity. (Section 4928.12, Ohio Revised Code, MCL § 460.10w). Pennsylvania utilities are encouraged to do so. 66 Pa.C.S. § 2802 (19). Even in those states that have not adopted retail choice, a competitively level playing field and non-discriminatory access to the interstate transmission network is vital to the development of a competitive wholesale market. A seamless interstate transmission network is a prerequisite for the development of a wholesale market. We need well

functioning wholesale markets to advance retail choice where it exists and to protect consumers where it does not.

**THE AEP MERGER DOCKETS – EC98-40-000 ER98-2770-000
ER98-2786-000**

10. On April 30, 1998, American Electric Power Company, Inc. (“AEP”) and Central and South West Corporation (“CSW”) filed applications for merger with your Commission, an Open Access Transmission Tariff, and a System Integration Agreement at the above listed dockets. Under the proposed merger, AEP would survive and become the parent of its existing subsidiaries and CSW, as a registered holding company under the Public Utility Holding Company Act (“PUHCA”). AEP asked that the proposed merger be approved by your Commission pursuant to Section 203 of the Federal Power Act.
11. On May 5, 1998, your Commission issued public notice of the filing directing that motions to intervene or protest should be filed on or before June 30, 1998. On November 11, 1998, your Commission issued an order accepting for filing and suspending the proposed tariffs and agreements, and setting the matter for hearing, *American Electric Power*, 85 F.E.R.C. ¶ 61,201.
12. On March 15, 2000, after hearing, your Commission issued a final order approving the proposed merger with specified conditions (“Opinion No.

442”). One of those conditions was that AEP transfer the operation of specified transmission facilities to an approved regional transmission organization (“RTO”) by December 15, 2001. *American Electric Power*, 90 F.E.R.C. ¶ 61,242 (2000) (Hebert dissenting). AEP accepted the Commission’s conditions to the merger and made a compliance filing on March 31, 2000.

13. On May 15, 2000, your Commission issued an order on rehearing dismissing in part and granting in part. *American Electric Power*, 91 F.E.R.C. ¶ 61,129 (2000) (“Order 442-A”), noting that AEP had committed to comply with all merger conditions. On May 31, 2000, your Commission issued a final order accepting AEP’s compliance filing, as modified. *American Electric Power*, 91 F.E.R.C. ¶ 61,208 (2000).
14. On February 28, 2003, AEP filed a 17 page *Report on Compliance With Transmission-Related Merger Conditions* (“AEP Report”). In that report, AEP asserts that, because of several listed actions by States, it may be unable to fulfill the Commission’s merger condition requiring it to join an approved RTO. AEP states:

Under these circumstances, AEP will continue, as appropriate, in its efforts to join a FERC-approved RTO. However, AEP cannot be expected, in defiance of state laws and concerns, unilaterally to take actions that states have prohibited or for which states have declined to provide requisite approvals. [FERC] may have the authority to exempt AEP from these state prohibitions and requirements,

but the decision whether to exercise such authority lies with this Commission.

15. One of the listed state actions in the AEP report was the passage on February 20, 2003 of Virginia HB 2453, an act which purports to forbid transmission owners within the Commonwealth of Virginia from joining any RTO prior to July 1, 2004 and not thereafter without a cost of service study demonstrating benefits to Virginia and approval by the Virginia State Corporation Commission. ("VaSCC"). The bill, which has not yet received gubernatorial approval², provides further that transmission owners shall join an RTO prior to January 1, 2005, subject to VaSCC approval.
16. The VaSCC, in a January 3, 2003 report to the Virginia legislature³, warned that your Commission's Standard Market Design initiative and the requirement that transmission owners join RTOs will endanger Virginia customers:

Currently in Virginia, customers of electricity have first priority to be served by the generation and transmission facilities that they have bought and continue to pay for through existing rates. FERC believes that this favoring of native load customers is discriminatory and damages electric markets. The FERC SMD seeks to eliminate the native load

² As the regular Virginia legislative session ended on February 22, 2003, Virginia HB 2453 must be signed or vetoed by the Governor within thirty days after it is presented for signature. *Constitution of Virginia*, Article V, Section 6 (iii) (c). *Constitution of Virginia*, Article IV, Section 13 indicates that laws enacted at a regular session take effect on the first day of July following the adjournment of the session of the General Assembly at which it has been enacted.

³ *Review of FERC's Proposed Standard Market Design and Potential Risks to Electric Service in Virginia – Addendum to 2002 Status Report on Competition* ("VaSCC Report"), currently available on the VaSCC's web site at: http://www.state.va.us/scc/caseinfo/reports/lttf_addendum_02.pdf.

preference. This means, on the hottest and/or coldest days of the year, or whenever some event threatens the integrity of the regional electric transmission system, Virginians could experience service interruptions to make sure the lights stay on somewhere else in the multi-state region which includes Virginia. This could occur even though there is adequate generation and transmission located in Virginia to serve them...Only if the Commonwealth *reverses* the Act's requirement to unbundled rates and *defers* the Act's requirement that Virginia's utilities join an [RTO] can Virginia preserve state jurisdiction.

VaSCC Report, pages 3, 5 (emphasis in original).

THE "NEW PJM COMPANIES" DOCKETS -- ER03-262-000 AND ER03-262-001

17. At the time of the AEP report to your Commission, AEP and other transmission owners were in active negotiation and implementation of a plan to transfer their transmission facilities to the operational control of PJM Interconnection, L.L.C. ("PJM"), an approved RTO⁴.
18. On December 11, 2002, AEP, along with Commonwealth Edison Co. and Commonwealth Edison Co. of Indiana, Inc. ("ComEd"), The Dayton Power and Light Co. ("Dayton"), and Virginia Electric Power Co. ("DVP") (collectively, "the New PJM Companies") filed tariffs and agreements and associated testimony with your Commission to join PJM and integrate their transmission facilities into the PJM RTO. *The New PJM Companies and PJM Interconnection, L.L.C.*, Docket Nos. ER03-262-000 and

⁴ PJM was unconditionally approved as an RTO by your Commission in an order entered on December 18, 2002. *PJM Interconnection, L.L.C., et al.*, 101 F.E.R.C. ¶ 61,345 (2002).

ER03-262-001. The applications asked your Commission to act on or before March 1, 2003, citing the need to obtain regulatory approvals to phase in the expanded PJM market operations in the “New PJM” regions.

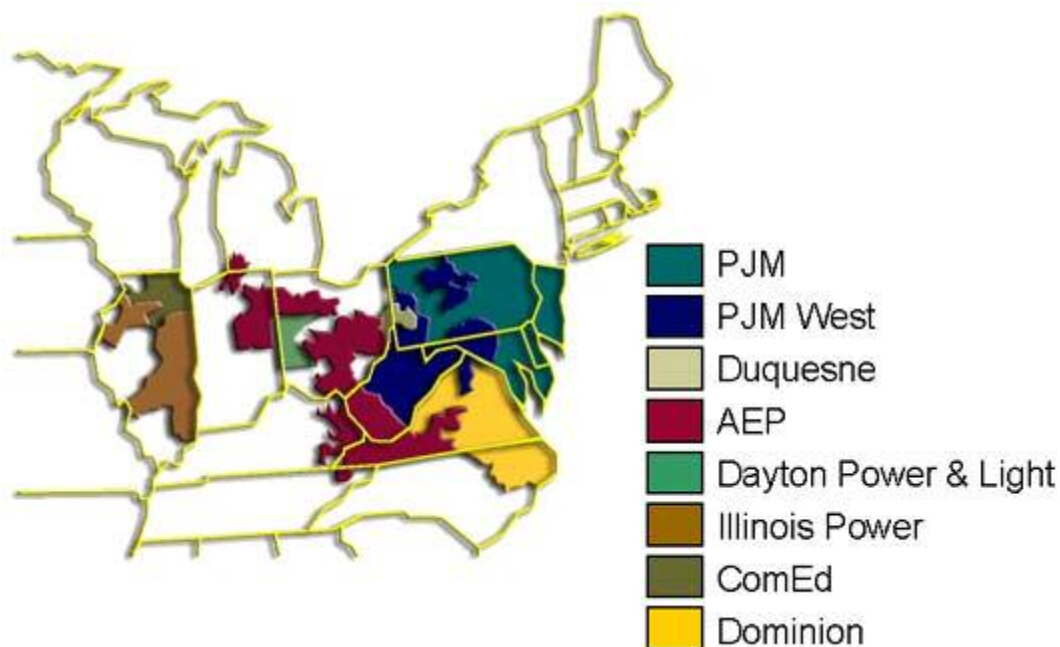
19. The filing was noticed by your Commission on December 18, 2002, with comments to be filed on or before January 3, 2003, which date was extended by your Commission to January 17, 2003.
22. On January 16, 2003, the VaSCC, *inter alia*, filed a “Motion to Dismiss or In the Alternative, Protest, Motion for Maximum Suspension, Refund Conditions, Consolidation & Hearing”. In its pleading, the VaSCC asserts at pages 6-7 that:

Pursuant to the Restructuring Act, no Virginia utility may “transfer to any person any ownership or control of, or any responsibility to operate, any portion of any transmission system located in the Commonwealth without obtaining the *prior* approval of the [Virginia] Commission.” § 56-579 A.1 (emphasis added). The VSCC has granted no such approval to transfer control or responsibility to operate VEPCO’s or APCO’s transmission facilities to PJM. Indeed, as of the date of this protest, VEPCO has made no filing with the VSCC seeking authorization to transfer control of its transmission facilities within the Commonwealth to PJM, and APCO did so only on December 19, 2002. Accordingly, the VSCC requests that the Commission dismiss the filing in the instant docket as premature.

Such a dismissal would comport with the Commission’s oft-stated desire to work in cooperation with state commissions and recognition of the state commissions’ “important role in the process of creating and sustaining an efficient competitive wholesale market for electricity.” To avoid any unnecessary jurisdictional conflicts, the Commission should dismiss the joint filing by PJM and the New PJM Companies until the VSCC and other affected states have had

a proper opportunity to assess the full and ultimate impact of these proposals on the development of retail competition in Virginia and the pricing and reliability of retail electric service in Virginia, and to discharge the obligations placed upon the VSCC with regard to the proposed asset transfers by the Restructuring Act. Notwithstanding the Applicants' request that their proposed OATT amendments take effect as early as February 1, 2003, the VSCC has a prior statutory obligation to address these issues.

23. AEP's facilities in Michigan, Indiana, Ohio, West Virginia, Kentucky and Virginia are among those involved in the PJM West expansion⁵. (See system map below). In addition, Dominion Virginia Power has facilities in Virginia and North Carolina.



⁵ AEP owns facilities in the States of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia. The Arkansas, Louisiana, Oklahoma and Texas facilities are not involved in the PJM West expansion.

24. As a result of the AEP report, PJM announced on March 3, 2003, that it was indefinitely extending the “start-up” date of the integration of AEP and the other New PJM companies into PJM. (See PJM news release, Appendix A, *PJM Extends Market Growth Implementation Schedule While Moving Forward With Interim Measures*. Citing “regulatory uncertainties”, PJM Senior Vice President Richard Wodyka states:

We continue with the development and transfer of certain transmission functions for AEP, ComEd, and DP&L. However, regulatory uncertainties make it prudent to extend the market implementation date at this time to allow the regulatory approval process to continue. It is recognized that the FERC needs to evaluate options, especially in light of the recent Virginia legislative developments. FERC guidance providing direction is essential for us to move forward. This postponement will also provide the market participants with an adequate time frame to receive additional training and further develop their strategies for participating in the competitive wholesale electric market.

25. While only a small portion of AEP and other PJM West transmission facilities are located within the Commonwealth of Virginia, as a result of the acts and assertions of jurisdiction by Virginia and the VaSCC, the entire PJM market expansion has come to a standstill. Since AEP indicates that it cannot operate its Virginia based transmission facilities separately from the rest of the system, Virginia and the VaSCC are exercising *de facto* jurisdiction over a wholesale electric market region which extends over the

SPP, MISO and PJM regions covering 27 States and the District of Columbia.

26. At the same time, Virginia utilities and corporations subject to your Commission's jurisdiction benefit from exempt wholesale generator determinations⁶ and market-based rate authorizations under 18 CFR § 35.27 issued by your Commission which permit them to sell power in competitive markets inside and outside Virginia⁷. However, *Virginia utilities are protected from interstate competition*. Such economic protectionism is contrary to the interstate commerce clause of the United States Constitution, the Federal Power Act, Energy Policy Act of 1992, and the orders and regulations of your Commission.

MOTION FOR RELIEF

27. While the Joint Movants are sensitive to the concerns of those States which seeking to carry out their individual State jurisdictional responsibilities, exercise of such duties cannot interfere with the national goals of creating a strong and fair wholesale energy market, and of assuring that every wholesale market participant is able to obtain access to the interstate grid on comparable terms and conditions.

⁶ See, e.g. *Application of Dominion Equipment III, Inc. for Exempt Wholesale Generator Status*, Docket No. EG02-33-000 (filed November 20, 2001).

⁷ See, e.g. *Dominion Energy Marketing, Inc.'s filing of a Service Agreement With Old Dominion Electric Cooperative*, Docket No. ER02-2360-000 (July 24, 2002).

28. The Joint Movants have, pursuant to the directives of their respective State legislatures, each initiated comprehensive retail electric competition and customer choice in their States. As retail choice at the State level is dependent upon the development of a workable interstate competitive wholesale market to advance retail choice, each of the Joint Movants will be impaired in the exercise of its responsibilities from a delay of interstate wholesale market development. Even in those states which have not adopted retail choice, bundled retail rates require non-discriminatory access to the interstate transmission network. A seamless interstate transmission network is a prerequisite for the development of a wholesale market and we need this market to advance retail choice where it exists. As noted above, American Electric Power is obligated by this Commission's order in the above-referred dockets to join an RTO. Both before and after consummation of the AEP merger, efforts have been pursued, albeit unsuccessfully, to effectuate AEP's participation in any number of regional entities. Through all the iterations, the Joint Movants have actively supported the development of a competitive wholesale and retail marketplace.
29. Our first choice, and strong preference, is still to see AEP expeditiously join an established RTO. However, to postpone a direct jurisdictional conflict, and indeed in the hopes that such a conflict might be avoided

altogether, the Joint Movants propose the following interim course of action:

30. AEP should be required to immediately contract with an independent third party that has no economic interest in the wholesale generation market to operate AEP's transmission system, in a manner that need not require any legal transfer of functional control or state approval. To be an acceptable candidate, this independent third party must either be an established RTO or have a binding contractual commitment to operate AEP's transmission system with an established RTO in a manner consistent with the TransLink precedent discussed below. The most logical entity to assume this third party operational function is PJM Interconnection, L.L.C., which, in consultation with AEP and the other applicants in "The New PJM" docket at ER03-262, have already expended many dollars and hours in assessing each others' transmission grids and in drafting the agreements and operating protocols necessary for joint operation.
31. The Joint Movants note that your Commission has already approved a similar arrangement. *Translink Transmission Company, LLC, et al.*, 99 FERC ¶ 61,106. As Nebraska law hampered Nebraska Public Power District from transferring control of its transmission system and property to a private entity, your Commission approved a transfer of functional control over these facilities reasoning:

Several commenters express concern that TRANSLink's independence is compromised by the fact that Participants can merely transfer control of transmission assets to TRANSLink via lease and operating agreements and that those transmission owners that do sell their assets to TRANSLink receive a passive interest in TRANSLink rather than cash. We find that the TRANSLink proposal for turning over functional control of transmission facilities is consistent with the independence requirement of Order No. 2000. Whether Participants sell, lease or arrange an operating agreement with TRANSLink, the Corporate Manager will have full operational control of TRANSLink and the Corporate Manager will be independent of any market participants.

Id. At 16.

32. Your Commission pragmatically did not require every detail of the arrangement to be in place stating:

Some of the operational control allowed at this time is permitted because it is consistent with today's markets in the Midwest ISO and its Day One congestion management. As we move toward our plan for Standard Market Design (SMD) and the Midwest ISO implements Day Two congestion management, some of these operational elements may have to be modified. TRANSLink proposes to work with the Midwest ISO in the development of Day Two congestion management. As that happens, we expect TRANSLink to implement any necessary modifications to its grid operations to support the Midwest ISO's locational marginal pricing (LMP) and other aspects of SMD on a unified, region-wide market basis.

Id. At 17.

33. In order to avoid a direct jurisdictional clash, your Commission thus ordered the consummation of an operational agreement between Nebraska

Public Power District and TRANSLink Development in order that NPPD become a TRANSLink participant, with TRANSLink providing transmission service on behalf of NPPD. Similarly, your Commission might direct that AEP enter into a similar operating agreement between itself and an independent third party that has a binding commitment to offer transmission services under an established RTO.

34. While this arrangement would not immediately create a regional wholesale generation market, your Commission has not required that all generation markets be operated by RTOs. *Regional Transmission Organizations*, 89 FERC ¶ 61,285. A primary purpose of the creation of independent regional transmission entities is to separate transmission service operations from generation to prevent vertically integrated public utilities from exercising preferential treatment of their own generation. *Id.* At 35-36.
35. While the Joint Movants recognize that this proposal is not an end state and does not dispose of all issues, it will enable progress to be made. The necessary and critical step of transferring control of AEP's grid to an independent third party operator under an established RTO assures non-discriminatory open-access to the transmission system and will enable regional interstate electric generation markets to develop.
36. This step alone is not enough. FERC should be diligent in preventing any exercise of market power or market manipulation to be exercised prior to

allowing market based rates to be granted to, or exercised by, any company not a member of a “fully” functional independent third party transmission entity. Unless and until such action is taken to assure implementation of a full code of conduct, and resolution of issues related to the separation of control and decisionmaking., such companies should be subject to regulated rate making, rather than market based generation prices.

37. Action in this case will spur competitive wholesale market development in the entire 27 state area encompassing PJM, MISO and SPP and further this Commission’s statutory obligations imposed by Congress. Inaction will only continue the uncertainty and confusion in the wholesale market in this huge region.
38. For all these reasons, we urge this Commission to move forward promptly, avoiding further delay in RTO formation in the Midwest and implementing effective wholesale markets in the MISO/PJM region, by requiring that AEP either join an established RTO or consummate an operating agreement with an independent third party which has contracted to operate with an established RTO for transmission-related activities in a manner consistent with TransLink precedent.
39. Your Commission has ample jurisdiction to address the issues raised here. AEP has taken the benefit of your Commission’s order in the merger cases, and accepted the conditions placed upon the merger. Since December 15,

2001, AEP has been in technical default of its obligation to join an approved RTO. AEP now takes the position that it cannot fulfill its obligation due to conflicting directives between federal and state jurisdictions. However, your Commission's merger conditions have been in effect since March 15, 2000, while Virginia HB 2453, cited by AEP, has not yet been enacted, and will not become effective for several months, if ever.

40. In Order 2000, your Commission reaffirmed its Federal Power Act jurisdiction over the interstate transmission grid and over interstate transmission rates, terms and conditions that interfere with open access on equal terms and conditions⁸.
41. Congress has enacted legislation establishing a national policy that an effective competitive interstate wholesale electricity market shall be created⁹. While State jurisdiction to regulate retail markets is preserved, nothing in federal law authorizes any state to assume direct jurisdiction over the rates, rules or regulations of the interstate transmission grid.
42. The U.S. Supreme Court has held that the regulation of the interstate grid is under the jurisdiction of your Commission, and that States may not, under

⁸ *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), order on reh'g, Order No. 2000-A, 65 Fed. Reg. 12,088 (March 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), aff'd sub nom, *Public Utility District No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir).

⁹ *Energy Policy Act of 1992*, Public Law No: 102-486, enacted October 24, 1992.

the guise of local regulation, establish laws or rules which regulate the interstate grid. *New York, et al v. Federal Energy Regulatory Commission*, 535 U.S. 1 (2002), *Jersey Central Power & Light Co. v. Federal Power Commission*, 319 U.S. 61 (1943).

43. Your Commission has already issued final, non-appealable orders to AEP, directing it to join an approved RTO. It is presently in technical default of the conditions of its merger approval. In addition, as noted above, AEP has joined in with other transmission owners to apply to your Commission for authorization to join PJM. The merger conditions should be enforced, and your Commission should expedite its consideration of the “New PJM Companies” applications in support of those conditions.
44. If need be, your Commission has ample jurisdiction to foster well functioning, competitive wholesale markets. Under Section 202 (a) of the Federal Power Act, your Commission is empowered to divide the country into regional districts for voluntary interconnection and coordination. Under Section 202 (b), upon application of any State Commission, your Commission may, by order, direct the physical connection of transmission facilities. Under Section 205 of the Public Utility Regulatory Policies Act of 1978, 16 USC 824a-1, your Commission may, after notice and hearing, exempt electric utilities from any provision of State law, rule or regulation

which prohibits or prevents the voluntary coordination of electric utilities,
including any agreement for central dispatch.

WHEREFORE, the PaPUC respectfully asks that your Commission allow its intervention in the above cases out-of-time, and the Joint Movants ask that your Commission order AEP to immediately either join an established RTO or to transfer operational control of its transmission facilities to an independent third party with a binding commitment to operate AEP's transmission services under an established RTO in accordance with the above discussion.

Respectfully Submitted,

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Dated: March 14, 2003

APPENDIX "A"

PJM Interconnection, L.L.P.

"PJM Extends Market Growth Implementation Schedule While Moving Forward With Interim Measures" – March 3, 2003

(Valley Forge, PA - March 3, 2003) - PJM Interconnection today announced that the planned May 1 date for the full integration of American Electric Power (NYSE: AEP), Commonwealth Edison, a subsidiary of Exelon Corporation (NYSE: EXC) and The Dayton Power & Light Company (NYSE: DPL) into PJM's wholesale power market is being extended pending regulatory approvals.

In June 2002, AEP, DP&L and ComEd announced their intent to join PJM. A May 1, 2003, date was proposed initially for AEP and DP&L to be integrated into PJM's wholesale power market. While technical implementation activities continue, full integration of the utilities into PJM will be delayed pending the necessary regulatory approvals.

In order to maintain progress with achieving independent operations of their transmission systems, AEP, ComEd and DP&L have agreed, subject to receiving regulatory approvals, to work toward turning over control of certain transmission functions -- including OASIS (open access same-time information system), ATC (available transfer capability) calculations, transmission scheduling and security coordination -- to PJM. Additionally, the companies are working with PJM to implement PJM market monitoring in their region.

"We continue with the development and transfer of certain transmission functions for AEP, ComEd, and DP&L. However, regulatory uncertainties make it prudent to extend the market implementation date at this time to allow the regulatory approval process to continue," said Richard Wodyka, PJM's senior vice president - RTO coordination and integration. "It is recognized that the FERC needs to evaluate options, especially in light of the recent Virginia legislative developments. FERC guidance providing direction is essential for us to move forward. This postponement will also provide the market participants with an adequate time frame to receive additional training and further develop their strategies for participating in the competitive wholesale electric market."

Wodyka said that PJM continues to use the successful implementation of Allegheny Energy as a model for market growth implementation. During the nine months in 2002 that Allegheny Power has been a part of PJM West, access to competitive power resulted in savings of more than \$100 million dollars to load serving entities in PJM's service territory.

Regulatory delays causing the change in market growth implementation dates also may impact the timing of implementation of the joint and common market being collaboratively planned by PJM, the Midwest ISO and the Southwest Power Pool (SPP). In January 2002, PJM and MISO/SPP announced their intention to develop a joint and common market for their combined footprint, which is in 27 states, the District of Columbia and the Canadian province of Manitoba.

If the Virginia legislation prevents AEP from joining a regional transmission organization until July 1, 2004, the development of the MISO/PJM/SPP joint and common market also could be delayed.

"From the planning perspective, it is imperative to incrementally integrate systems such as AEP and ComEd into our system and then to operate them as part of the PJM system for a period to ensure a successful joint and common market operation with MISO/SPP," said Wodyka. "It is simply not prudent to bring a 200,000 megawatt system into operation all at once." PJM's experience indicates that an incremental approach to incorporating or starting new markets has been crucial to its success and ultimately benefits its members by ensuring that once a market or new system is incorporated it performs seamlessly, with few if any disruptions.

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PJM, the country's first fully functioning regional transmission organization, operates the world's largest competitive wholesale electricity market. The company currently coordinates a pooled generating capacity of more than 71,600 megawatts and operates a wholesale electricity market with more than 200 market buyers, sellers and traders of electricity. PJM has administered more than \$9 billion in energy and energy service trades since the regional markets opened in 1997. More than 70 nations have sent delegates to PJM to learn about its market model and the operation of the grid in a region including more than 25 million people in all or parts of Del., Md., N. J., Ohio, Pa., Va., W. Va. and the District of Columbia. Visit PJM at www.pjm.com.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each party designated on the official service list compiled by the Secretary in Docket Nos. EC98-40-000, ER98-2770-000, ER98-2786-000 in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18. C.F.R. 385.2010 (2001).

Dated at Harrisburg, Pennsylvania this 14th day of March, 2003.

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